

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed October 15, 2003. Claim 40 has been added herein. Upon entry of this response, claims 1-40 remain pending in the present application.

In the Office Action, pending claims 1-8 and 10-39 have been preliminarily rejected as being obvious under 35 U.S.C. § 103(a). The Examiner also acknowledged that claim 9 would be allowable if rewritten in independent form. The Applicants respectfully traverse all of the rejections of the Office Action. Reconsideration and allowance of the subject application and presently pending claims 1-40 is respectfully requested.

I. Response To Claim Rejections Based On Obviousness

In the Office Action, claims 1, 4-8, 10-20, and 23-39 have been preliminarily rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent Application Pub. 2002/0009016 to Ancona *et al.* (hereinafter, "Ancona") in view of US Design Patent No. 386,941 to Barker (hereinafter, "Barker") and claims 2-3 and 21-22 have been preliminarily rejected under 35 U.S.C. §103(a) as being unpatentable over Ancona in view of Barker, further in view of US Patent No. 4,588,004 to Herbert.

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A. Claim 1

Independent claim 1 reads:

A bar tool, comprising:

a handle,

an electronic display for displaying a drink recipe,

coupled to the handle; and

a measuring device extending from the handle for
measuring ingredients.

(Emphasis Added)

The Applicants respectfully submit that Ancona and Barker fail to disclose, teach, or suggest at least the above-emphasized element of claim 1.

Specifically, Ancona and Barker fail to disclose, teach, or suggest a handle.

The Examiner references Element 76 of Ancona as disclosing a handle.

However, Ancona does not disclose, teach, or suggest a handle. Ancona discloses *a base* (FIG. 4A, element 76 and Page 2, Par. 0036). Ancona's base is not used to manipulate Ancona's jar (FIG. 4A, element 84 and Page 2, Par. 0037). In addition, Ancona does not disclose, teach, or suggest that the base is or could be used as a handle.

As a result of at least the above mentioned, the Applicants respectfully submit that claim 1 is allowable and allowance is respectfully requested.

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B. Claims 2-14

The Applicants respectfully submit that since claims 2-14 depend on independent claim 1, claims 2-14 contain all limitations of independent claim

1. Since independent claim 1 should be allowed, as argued above, pending dependent claims 2-14 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

1. Claim 2

In addition to the above-mentioned, claim 2 is also allowable for the following reasons. The Examiner rejected claim 2 as being unpatentable over Ancona in view of Barker further in view of Herbert. However, the combination of Ancona, Barker, and Herbert does not disclose, teach, or suggest a first and a second measuring container extending from the handle. If an individual were to combine Ancona, Barker, and Herbert, the combined device would have a second measuring container within a first measuring container with only the first measuring container extending from the body. Applicants' claim 2 recites a measuring device comprising a first container and a second container extending from a handle. Ancona, Barker, and Herbert do not disclose, teach, or suggest a first container and a second container extending from a handle.

Therefore, the Applicants respectfully submit that claim 2 should be allowed.

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2. Claim 5

In addition to the above mentioned, claim 5 recites, "an actuator for scrolling through the plurality of drink titles." Neither Ancona nor Barker disclose, teach, or suggest scrolling through the plurality of drink titles. Therefore, since none of the cited references disclose, teach, or suggest claim 5, claim 5 should be allowed.

3. Claim 9

In addition to the above mentioned, the Examiner allowed claim 9 because none of the references disclose, teach, or suggest the controller displaying a next ingredient in the recipe when a sensor senses rotation of the handle. Therefore, since none of the cited references disclose, teach, or suggest claim 9, claim 9 should remain allowed. In addition, as mentioned hereafter, the Applicants have added independent claim 40, which is claim 9 in independent form.

4. Claim 11

In addition to the above mentioned, Ancona and Barker fail to disclose, teach, or suggest the elements of claim 11. Claim 11 recites, "wherein the display displays icons." The Examiner references Fig. 4b, ref. 92 of Ancona. However, Ancona does not disclose displaying an icon. Ancona discloses an LCD with only text; no icons are shown in FIG. 4b. Ancona does not disclose,

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teach, or suggest the LCD displaying an icon in either the figures or the specification.

Therefore, the Applicants respectfully submit that claim 11 should be allowed.

C. Claim 15

Independent claim 15 reads:

A bar tool, comprising:

a handle,

a memory disposed in the handle, the memory storing at least one drink title and an associated drink recipe,

an electronic display capable of displaying the drink title and the associated drink recipes coupled to the handle; and

a measuring device extending from the handle for measuring an ingredient listed in the drink recipe.

(Emphasis Added)

The Applicants respectfully submit that Ancona and Barker fail to disclose, teach, or suggest at least the above-emphasized element of claim 15.

Specifically, The Examiner references Element 76 of Ancona as disclosing a handle. However, Ancona does not disclose, teach, or suggest a handle.

Ancona discloses *a base* (FIG. 4A, element 76 and Page 2, Par. 0036). In addition, Ancona's base is not used to manipulate Ancona's jar (FIG. 4A,

element 84 and Page 2, Par. 0037). Ancona does not disclose, teach, or suggest that the base is or could be used as a handle.

As a result of at least the above mentioned, the Applicants respectfully submit that claim 15 is allowable and allowance is respectfully requested.

D. Claims 16-19

The Applicants respectfully submit that since claims 16-19 depend on independent claim 15, claims 16-19 contain all limitations of independent claim 15. Since independent claim 15 should be allowed, as argued above, pending dependent claims 16-19 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

1. Claim 16

In addition to the above mentioned, claim 16 recites, "an actuator for scrolling through the plurality of drink titles." Neither Ancona nor Barker disclose, teach, or suggest scrolling through the plurality of drink titles. Therefore, since none of the cited references disclose, teach, or suggest an actuator for scrolling through the plurality of drink titles, claim 16 should be allowed.

E. Claim 20

Independent claim 20 reads:

A tool, comprising:

a handle,

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an electronic display for displaying a recipe, coupled to
the handle; and

a measuring device extending from the handle for
measuring ingredients.

(Emphasis Added)

The Applicants respectfully submit that Ancona and Barker fail to disclose, teach, or suggest at least the above-emphasized element of claim 20. Specifically, The Examiner references Element 76 of Ancona as disclosing a handle. However, Ancona does not disclose, teach, or suggest a handle. Ancona discloses *a base* (FIG. 4A, element 76 and Page 2, Par. 0036). Ancona's base is not used to manipulate Ancona's jar (FIG. 4A, element 84 and Page 2, Par. 0037). In addition, Ancona does not disclose, teach, or suggest that the base is or could be used as a handle.

As a result of at least the above mentioned, the Applicants respectfully submit that claim 20 is allowable and allowance is respectfully requested.

F. Claim 21-33

The Applicants respectfully submit that since claims 21-33 depend on independent claim 20, claims 21-33 contain all limitations of independent claim 20. Since independent claim 20 should be allowed, as argued above, pending dependent claims 21-33 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

1. Claim 21

In addition to the above mentioned, claim 21 is also allowable for the following reasons. The Examiner rejected claim 21 as being unpatentable over Ancona in view of Barker further in view of Herbert. However, the combination of Ancona, Barker, and Herbert does not disclose, teach, or suggest a first and a second measuring container extending from the body. If an individual were to combine Ancona, Barker, and Herbert, the combined device would have a second measuring container within a first measuring container with only the first measuring container extending from the body. Applicants' claim 21 recites a measuring device comprising a first container and a second container extending from a handle. Ancona, Barker, and Herbert do not disclose, teach, or suggest a first container and a second container extending from a handle.

Therefore, the Applicants respectfully submit that claim 21 should be allowed.

2. Claim 29

In addition to the above mentioned, Ancona and Barker fail to disclose, teach, or suggest the elements of claim 29. Claim 29 recites, "wherein the display displays icons." The Examiner references Fig. 4b, ref. 92 of Ancona. However, Ancona does not disclose, teach, or suggest displaying an icon. Ancona discloses an LCD with only text; no icons are shown in FIG. 4b.

Ancona does not disclose, teach, or suggest the LCD displaying an icon in either the figures or the specification.

Therefore, the Applicants respectfully submit that claim 29 should be allowed.

G. Claim 34

Independent claim 34 reads:

A tool, comprising:

a handle,

a memory disposed in the handle, the memory storing at

least one title and an associated recipe,

an electronic display capable of displaying the title and

the associated recipes coupled to the handle; and

a measuring device extending from the handle for

measuring an ingredient listed in the recipe.

(Emphasis Added)

The Applicants respectfully submit that Ancona and Barker fail to disclose, teach, or suggest at least the above-emphasized element of claim 34.

Specifically, The Examiner references Element 76 of Ancona as disclosing a handle. However, Ancona does not disclose, teach, or suggest a handle.

Ancona discloses *a base* (FIG. 4A, element 76 and Page 2, Par. 0036).

Ancona's base is not used to manipulate Ancona's jar (FIG. 4A, element 84

and Page 2, Par. 0037). In addition, Ancona does not disclose, teach, or suggest that the base is or could be used as a handle.

As a result of at least the above mentioned, the Applicants respectfully submit that claim 34 is allowable and allowance is respectfully requested.

H. Claim 35-39

The Applicants respectfully submit that since claims 35-39 depend on independent claim 34, claims 35-39 contain all limitations of independent claim 34. Since independent claim 34 should be allowed, as argued above, pending dependent claims 35-39 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

II. Newly Added Claim

In the Office Action, claim 9 has been objected to as being dependent from a rejected base claim, however, claim 9 would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims. In response, the Applicants have added claim 40, which is claim 9 rewritten in independent form including all of the limitations of the base claim and intervening claims. The Applicants wish to thank the Examiner for acknowledging allowance of claim 9.

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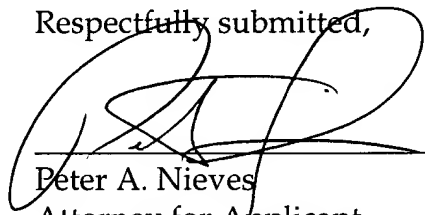
III. Prior Art Made of Record

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, the Applicants respectfully submit that all objections and rejections have been traversed, rendered moot and/or accommodated, and that presently pending claims 1-40 are in condition for allowance. Favorable reconsideration and allowance of the present application and the presently pending claims are hereby courteously requested. If in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (603) 668-1400.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on December 23, 2003 at Manchester, New Hampshire.

By:



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